

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**BVP VENTURES LLC,** §  
§  
**Plaintiff,** §  
§  
vs. § **CIVIL ACTION NO.: \_\_\_\_\_**  
§  
**LIBERTY MUTUAL INSURANCE** §  
**CORPORATION,** §  
§  
**Defendant.** §

**DEFENDANT'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81(a), Defendant Ohio Security Insurance Company, incorrectly sued as Liberty Mutual Insurance Corporation (“Ohio” or “Defendant”) files this *Notice of Removal*, hereby removing this action from the 95th Judicial District Court, Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on diversity jurisdiction because there is both complete diversity between Plaintiff BVP Ventures LLC (“Plaintiff”) and Ohio, and an amount in controversy in excess of \$75,000.00, exclusive of interest and costs. In support of its *Notice of Removal*, Defendant respectfully shows the Court as follows:

**I.**  
**INTRODUCTION**

This dispute arises from Plaintiff’s claim for storm damage to commercial property located at 2001 South Glenbrook Drive, Garland, Texas 75041, (the “Property”). Plaintiff alleges that Defendant breached a policy of insurance and violated certain provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act

(“DTPA”) by, among other things, failing to pay Plaintiff’s claims for damages resulting from alleged an alleged storm.

On November 30, 2016, Plaintiff filed its Original Petition in the 95th Judicial District Court, Dallas County, Texas. Plaintiff served Ohio with a citation and a copy of Plaintiff’s Original Petition on December 12, 2016, through its registered agent for service of process. On December 28, 2016, Defendant timely filed an answer to Plaintiff’s Original Petition. This *Notice of Removal* is being filed within thirty (30) days of service of the Petition and is therefore timely filed under 28 U.S.C. §1446(b).

**II.**  
**BASIS FOR REMOVAL**

**A. DIVERSITY OF CITIZENSHIP**

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff is a Limited Liability Company residing in Dallas County, Texas. *See* Plaintiff’s Original Petition, at ¶ 2. Ohio is a corporation organized under the laws of the State of Illinois with its principal place of business in Boston, Massachusetts. As such, Ohio is both a citizen of Illinois and Massachusetts. Accordingly, there exists complete diversity of citizenship between the parties.

**B. AMOUNT IN CONTROVERSY**

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff’s complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff’s Original Petition that its claims exceed \$75,000.00. In paragraph 1 of the Petition, Plaintiff states it: “seeks monetary relief of over \$100,000.”

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court, and this Court has original jurisdiction over the subject

matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Ohio. Finally, as alleged in its Petition, Plaintiff seeks to recover in excess of \$100,000.00 from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

**III.**  
**CONSENT TO REMOVAL UNNECESSARY**

Ohio is the only defendant named in Plaintiff's Petition. Thus, no additional consent is needed for removal.

**IV.**  
**COMPLIANCE WITH PROCEDURAL REQUIREMENTS**

As required by Local Rule 81.1(a), filed concurrently with this *Notice of Removal* is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with Local Rule 3.1. Additionally, the following exhibits are attached:

- **EXHIBIT A** – Index of all documents filed in state court;
- **EXHIBIT B** – Register of Actions in the state court action; and
- **EXHIBITS C-1 and C-2** – A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of the filing of this *Notice of Removal* to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this *Notice of Removal* with the District Clerk, Dallas County, Texas promptly after filing of same.

**V.**  
**CONCLUSION AND PRAYER**

Based on the foregoing, Defendant Ohio Security Insurance Company respectfully requests that the above-styled action now pending in the 95th Judicial District Court, Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division. Defendant further requests all such other and further relief to which it is justly entitled.

Respectfully submitted,

*/s/ Colin Batchelor*

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**ATTORNEYS FOR DEFENDANT  
OHIO SECURITY INSURANCE  
COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been forwarded to Plaintiff's counsel of record via electronic means and/or facsimile on January 11, 2017, in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

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*/s/ Colin Batchelor*  
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